

Introduced by Senator Figueroa
(Principal coauthor: Assembly Member Cardenas)

February 23, 2001

An act to amend Sections 8277.5 and 8277.6 of the Education Code, relating to child care and development services.

LEGISLATIVE COUNSEL'S DIGEST

SB 895, as introduced, Figueroa. Child care and development facilities loan guarantees.

Existing law, the Child Care and Development Services Act, requires the Superintendent of Public Instruction to develop standards for the implementation of quality programs and to ensure that related contracts provide support to the public school system through the delivery of appropriate educational services. Existing law authorizes the Department of Housing and Community Development to administer a program for the granting of loans and loan guarantees for the purposes of development, construction, expansion, or improvement of child care and development facilities.

This bill would make technical, nonsubstantive changes in these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 8277.5 of the Education Code is
- 2 amended to read:
- 3 8277.5. (a) For purposes of this section "department" means
- 4 the Department of Housing and Community Development.

(b) Subject to appropriation in the annual Budget Act, the Child Care and Development Facilities Loan Guaranty Fund and the Child Care and Development Facilities Direct Loan Fund are hereby established in the State Treasury. The Superintendent of Public Instruction may transfer state funds appropriated for child care facilities enhancement and the proceeds derived from any future sales of tax-exempt child care and development facilities bonds into these funds.

(c) Notwithstanding Section 13340 of the Government Code, all moneys in the Child Care and Development Facilities Loan Guaranty Fund and the Child Care and Development Facilities Direct Loan Fund, including any interest on loans made from the fund, or loan repayments to the fund, are hereby continuously appropriated to the department for carrying out the purposes of this section and Section 8277.6, respectively. Any loan repayment or interest resulting from investment or deposit of moneys in these funds shall be deposited in the applicable fund, notwithstanding Section 16305.7 of the Government Code. Moneys in the funds shall not be subject to transfer to any other fund pursuant to Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, except the Surplus Money Investment Fund.

(d) (1) Moneys deposited in the Child Care and Development Facilities Loan Guaranty Fund shall be used for the purpose of guaranteeing private sector loans to sole proprietorships, partnerships, proprietary and nonprofit corporations, and local public agencies for the purchase, development, construction, expansion, or improvement of licensed child care and development facilities, and for the purpose of administering the guarantees of these loans. The loan guarantees shall be made by the department or by a public or private entity approved by the department, in accordance with the priorities established by the department, as described in Section 8277.6. The full faith and credit of the State of California is not pledged to the Child Care and Development Facilities Loan Guaranty Fund and the state is not liable for loan defaults that exceed the amount of funds deposited with the Child Care and Development Facilities Loan Guaranty Fund.

(2) A loan guarantee made pursuant to this section may not exceed 80 percent of the principal and interest amount of a private sector loan guaranteed by the fund and shall be used only to

1 guarantee a private sector loan for the purchase, development,
2 construction, expansion, or improvement of facilities described in
3 Section 8277.6 and for related equipment and fixtures, but shall
4 not be used primarily to refinance an existing loan or for working
5 capital, supplies, or inventory. A loan guarantee for improvements
6 shall be limited to those improvements necessary, as determined
7 by the department, for any of the following purposes:

8 (A) To obtain, maintain, renew, expand, or revise a child care
9 license.

10 (B) To make necessary health and safety improvements.

11 (C) To make seismic improvements.

12 (D) To provide access for disabled children.

13 (E) To expand upon or preserve existing child care operations.

14 (3) The aggregate amount of outstanding loan guarantees shall
15 not exceed four times the amount in the Child Care and
16 Development Facilities Loan Guaranty Fund.

17 (4) A loan guarantee made pursuant to this section shall be for
18 the term of the loan or *for* 20 years, whichever is less. Security for
19 the guaranteed loan may include a deed of trust, personal
20 guarantees of shareholders and partners in the case of proprietary
21 borrowers, or other reasonably available collateral. These liens
22 may be subordinated to other liens. Default provisions and other
23 terms shall be reasonable and designed to obtain prompt and full
24 repayment of the guaranteed loan by the borrower. Reasonable
25 loan guarantee fees and points may be charged to applicants and
26 borrowers by any public or private entity approved by the
27 department, as described in regulations adopted by the
28 department.

29 (5) A loan guarantee made pursuant to this section shall only be
30 granted if the applicant agrees to provide child care in a facility for
31 a period of 20 years or *for* the term of the guaranteed loan,
32 whichever is less.

33 (6) A loan guarantee made pursuant to this section terminates
34 120 days after the lender's receipt of notice that the recipient has
35 either ceased making payments or providing child care in the
36 facility for which the loan was made, or both, unless the lender
37 takes action to accelerate the loan. If a family day care provider
38 ceases to operate, but retains its three-year license, the provider
39 shall give notice to the department and the lending institution of
40 its intention to resume offering child care services for the term of

1 its license, or shall provide notice of its intention to cease
2 providing child care services. The Child Care and Development
3 Facilities Loan Guaranty Fund is not liable for a default occurring
4 after the loan guarantee has ended.

5 (e) (1) Moneys deposited in the Child Care and Development
6 Facilities Direct Loan Fund shall be used for the purpose of
7 making subordinated loans directly or through a public or private
8 entity approved by the department to sole proprietorships,
9 partnerships, proprietary and nonprofit corporations, and local
10 public agencies for the purchase, development, construction,
11 expansion, or improvement of licensed child care and
12 development facilities, and for the purpose of administering these
13 loans. Loans shall be made in accordance with the priorities
14 established by the department as set forth in Section 8277.6. The
15 full faith and credit of the State of California is not pledged to the
16 Child Care and Development Facilities Direct Loan Fund and the
17 state is not liable for loan defaults that exceed the amount of funds
18 deposited in the Child Care and Development Facilities Direct
19 Loan Fund.

20 (2) A loan made pursuant to this section may not exceed 50
21 percent of the total amount of investment for the purchase,
22 development, expansion, or improvement of eligible child care
23 and development facilities as described in Section 8277.6 and for
24 related equipment and fixtures, but may not be used primarily to
25 refinance an existing loan, for working capital, for supplies, or for
26 inventory. A loan made pursuant to this section may not exceed 20
27 percent of the total amount of investment if the same facility is also
28 utilizing a loan guarantee pursuant to subdivision (c). Investment
29 for purposes of this paragraph means the total cost paid or incurred
30 by the applicant in constructing, renovating, or acquiring a facility.
31 A loan for improvements shall be limited to those improvements
32 necessary, as determined by the department, for any of the
33 following purposes:

34 (A) To obtain, maintain, renew, expand, or revise a child care
35 license.

36 (B) To make necessary health and safety improvements.

37 (C) To make seismic improvements.

38 (D) To provide access for disabled children.

39 (E) To expand upon or preserve existing child care operations.



(3) The term of a loan made pursuant to this section may not exceed 20 years. Security for the loan may include a deed of trust, personal guarantees of shareholders and partners in the case of proprietary borrowers, or other reasonably available collateral. These liens may be subordinated to other liens. The payment provisions, late charges, and other terms may vary based on the ability of the borrower to repay the loan, but shall be reasonable and designed to obtain prompt and full repayment of the loan by the borrower. The interest rate for a direct loan shall be set at the time of application, fixed for the term of the loan, and set at a rate equivalent to the Surplus Money Investment Fund rate in effect on December 31 of the preceding calendar year. Reasonable loan fees and points may be charged to applicants and borrowers, as described in regulations adopted by the department.

(f) Funds appropriated for the purposes of this section and Section 8277.6 shall be made from funds that are not designated as meeting the state's minimum funding obligation under Section 8 of Article XVI of the California Constitution.

SEC. 2. Section 8277.6 of the Education Code is amended to read:

8277.6. (a) For purposes of this section "department" means the Department of Housing and Community Development.

(b) The department shall administer the Child Care and Development Facilities Loan Guaranty Fund and the Child Care and Development Facilities Direct Loan Fund. The department may administer the funds directly, through interagency agreements with other state agencies, through contracts with public or private entities, or through any combination thereof. If the department determines that a public or private entity is capable of making child care and development facilities loans or loan guarantees, the department may delegate the authority to review and approve those loans or guarantees to the public or private entity. The department is authorized to enter into an interagency agreement with the Trade and Commerce Agency to carry out the purposes of this section and of Section 8277.5 by utilizing the services of small business financial development corporations established pursuant to Chapter 1 (commencing with Section 14000) of Part 5 of Division 3 of the Corporations Code. Toward this end, the department is authorized to transfer funds from the Child Care and Development Facilities Direct Loan Fund to the

1 California Economic Development Grant and Loan Fund
2 established by Section 15327 of the Government Code and to
3 transfer funds from the Child Care and Development Facilities
4 Loan Guaranty Fund to the Small Business Expansion Fund
5 established by Section 14030 of the Corporations Code. Those
6 funds shall be deposited into a Child Care Direct Loan Fund
7 Account and a Child Care Loan Guaranty Fund Account hereby
8 established in the respective funds. Notwithstanding anything to
9 the contrary in Chapter 1 (commencing with Section 15310) of
10 Part 6.7 of Division 3 of Title 2 of the Government Code and
11 Chapter 1 (commencing with Section 14000) of Part 5 of Division
12 3 of the Corporations Code, the funds in these accounts shall be
13 administered in compliance with the requirements of this section
14 and Section 8277.5.

15 (c) Eligible applicants for the loan guaranty program and the
16 direct loan program shall include, but not be limited to, sole
17 proprietorships, partnerships, proprietary and nonprofit
18 corporations, and local public agencies that are responsible for
19 contracting with or providing licensed child care and development
20 services. Eligible facilities shall include licensed full-day and
21 part-day child care and development facilities and family day care
22 homes serving more than six children.

23 (d) Loan guarantees and direct loans for family child care
24 homes shall not be made for the purpose of purchasing a home or
25 any real property.

26 (e) The State Department of Education shall provide input
27 regarding program priorities that shall be considered in the
28 funding of applications by the department. These priorities shall
29 include, but are not limited to, the following:

30 (1) Geographic priorities based on the extent of need for child
31 care and development supply-building efforts in different parts of
32 the state.

33 (A) Not less than 30 percent of the loan guarantee and direct
34 loan obligations shall benefit providers located in rural areas, as
35 defined in subparagraph (B). If the amount of qualified
36 applications from rural providers is insufficient to satisfy this
37 requirement, the excess capacity reserved for rural providers may
38 be made available to other qualified applications according to the
39 policies and procedures of the department. The remaining 70



1 percent of funds shall be available to rural or urban areas and other
2 priorities in accordance with this subdivision.

3 (B) For purposes of subdivision (a), rural communities are
4 defined by any county with fewer than 400 residents per square
5 mile.

6 (2) Age priorities based on the extent of need for child care and
7 development supply-building efforts for children of different age
8 groups.

9 (3) Income priorities shall include families transitioning to
10 work or other lower income families. For purposes of this section,
11 “lower income” shall have the same meaning as “income
12 eligible” as set forth in Section 8263.1.

13 (4) Program priorities based on the extent of facilities needs
14 among specific kinds of providers, including those that contract to
15 administer state and federally funded child care and development
16 programs administered by the State Department of Education,
17 providers who have lost classrooms due to class size reduction or
18 other state or local initiatives, or providers that need to expand to
19 meet the needs of a child care initiative for recipients of aid under
20 Chapter 3 (commencing with Section 11200) of Part 3 of Division
21 9 of the Welfare and Institutions Code, or any successor program.

22 (f) The program priorities shall reflect input from
23 representatives of diverse sectors of the child care and
24 development field, financial institutions, local planning councils,
25 the Child Development Programs Advisory Committee, and the
26 State Department of Social Services for purposes of identifying
27 communities with high percentages of recipients of aid under
28 Chapter 3 (commencing with Section 11200) of Part 3 of Division
29 9 of the Welfare and Institutions Code, or any successor program,
30 who need child care to meet work requirements. The department
31 shall assess and report annually, commencing within 12 months of
32 implementation of this section to the Legislature, after
33 consultation with the State Department of Education, on the
34 performance, effectiveness, and fiscal standing of the Child Care
35 and Development Facilities Loan Guaranty Fund and the Child
36 Care and Development Facilities Direct Loan Fund. The report
37 shall include information on the number of defaults, the types of
38 facilities in default, and a review of the adequacy of the set-aside
39 for rural areas specified in paragraph (1) of subdivision (e).



1 (g) The department shall adopt regulations and establish
2 priorities, forms, policies and procedures for implementing and
3 managing the Child Care and Development Facilities Loan
4 Guaranty Fund and the Child Care and Development Facilities
5 Direct Loan Fund and making the loan guarantees and direct loans
6 authorized hereunder consistent with priorities provided by the
7 State Department of Education. To the extent feasible, the
8 department shall use applicant fees and points to cover its
9 administrative costs. The department may utilize an amount of
10 money from the Child Care and Development Facilities Loan
11 Guaranty Fund and the Child Care and Development Facilities
12 Direct Loan Fund, as appropriate, for reasonable administrative
13 costs in any given fiscal year. Unless an appropriation for
14 administrative costs is made in the annual Budget Act that exceeds
15 the following limits, administrative expenditures shall not exceed
16 3 percent of the amount appropriated to each fund in the Budget
17 Act of 1997.

18 (h) The department shall adopt regulations for serving family
19 day care homes that serve more than six children efficiently and
20 effectively, including, but not limited to, making loans available
21 from the Child Care and Development Facilities Direct Loan Fund
22 to local microenterprise loan funds and other lenders who may
23 relend the funds in appropriate amounts to eligible family day care
24 home providers or by authorizing a specified amount of guarantees
25 of small loans by local microenterprise loan funds and other
26 lenders serving eligible family day care home providers. A loan to
27 a family day care home provider made pursuant to this subdivision
28 shall not be subject to the 50-percent investment restriction
29 contained in paragraph (2) of subdivision (e) of Section 8277.5.

30 (i) The department may adopt regulations for the purposes of
31 this section as emergency regulations in accordance with Chapter
32 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
33 Title 2 of the Government Code. For the purposes of the
34 Administrative Procedure Act, including Section 11349.6 of the
35 Government Code, the adoption of the regulations shall be deemed
36 to be an emergency and necessary for the immediate preservation
37 of the public peace, health and safety, or general welfare,
38 notwithstanding subdivision (e) of Section 11346.1 of the
39 Government Code. Notwithstanding subdivision (e) of Section
40 11346.1, any regulation adopted pursuant to this section shall not



1 remain in effect more than 180 days unless the department
2 complies with all provisions of Chapter 3.5 (commencing with
3 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
4 Code, as required by subdivision (e) of Section 11346.1 of the
5 Government Code.

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